

Final Order Denying Refund: 04-20211005
Sales Tax
For The Tax Year 2021

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Individual was not entitled to an additional refund of Indiana sales tax on her travel trailer purchase because Individual purchased the travel trailer and took possession of the travel trailer at the Indiana Dealership's business location in Indiana. The transaction was an Indiana sale subject to Indiana sales tax.

ISSUE

I. Sales Tax - Refund.

Authority: IC § 6-8.1-9-1; IC § 6-2.5-2-1; IC § 6-2.5-13-1; IC § 6-2.5-5-39; *Dep't of Revenue, State of Indiana v. Kimball International, Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988); [45 IAC 2.2-2-1](#); Sales Tax Information Bulletin 72 (July 2020).

Taxpayer protests the partial refund denial of sales tax collected at the time of the sale.

STATEMENT OF FACTS

Taxpayer is a resident of North Carolina. On April 3, 2021, Taxpayer purchased a travel trailer from a dealership in Indiana ("Dealership"). Dealership collected Indiana sales tax at a rate of seven percent (\$1,242.50). Taxpayer took possession of the travel trailer at the Dealership in Indiana and then transported the travel trailer to North Carolina.

On April 14, 2021, Taxpayer registered her travel trailer with North Carolina. Upon registration, she was charged \$532.50 by the North Carolina Division of Motor Vehicles for taxes on the travel trailer. The tax amount was charged at three percent, the sales tax rate of North Carolina. After paying the North Carolina tax, Taxpayer filed a claim for refund requesting the full amount of tax paid in Indiana be refunded.

The Indiana Department of Revenue ("Department") provided a partial refund, noting that Taxpayer should have only been charged the three percent sales tax rate of North Carolina instead of the Indiana sales tax at a rate of seven percent. The Department refunded Taxpayer the four percent difference (\$710.00).

Taxpayer protested the partial refund. Taxpayer requested resolution without an administrative hearing. This Final Order Denying Refund results. Further facts will be provided as necessary.

I. Sales Tax - Refund.

DISCUSSION

The Department determined Taxpayer was not entitled to a refund. In its refund denial letter, the Department explained:

At the time of the purchase, the taxpayer paid Indiana sales tax rate of 7[percent], or \$1,242.50. The taxpayer should have been charged the North Carolina special vehicle sales tax rate of 3[percent], or \$532.50.

The requested refund was for the full amount of sales tax paid, \$1,242.50. However, the refund due is the 4[percent] difference between the Indiana sales tax rate and North Carolina special vehicle sales tax rate of 4[percent], or \$710.

Taxpayer argued that either Indiana should have sent the sales tax it collected to North Carolina or that she is

entitled to a full refund because she should not have paid tax twice on the same travel trailer purchase and the Department erroneously denied her a full refund.

IC § 6-8.1-9-1(a) affords a taxpayer a statutory right to file a claim for refund. This statute provides, in part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department.

Indiana imposes an excise tax called "the state gross retail tax" or "sales tax" on retail transactions made in Indiana. IC § 6-2.5-2-1(a); [45 IAC 2.2-2-1](#). A retail sale is sourced to Indiana and subject to Indiana sales tax when the transaction is a "retail sale" and the product is received by the purchaser at the business' location in Indiana. IC § 6-2.5-13-1(d)(1). A retail merchant that has a physical presence in Indiana shall collect the tax as an agent for the State. IC § 6-2.5-2-1(b).

Tax exemptions are strictly construed against the taxpayer. *Dep't of Revenue, State of Indiana v. Kimball International, Inc.*, 520 N.E.2d 454, 456 (Ind. Ct. App. 1988). The taxpayer has the burden of establishing qualification under the terms of the exemption. *Id.* IC § 6-2.5-5-39(c) provides the exemption requirements involving a cargo trailer or recreational vehicle.

Additionally, the Department's Sales Tax Information Bulletin 72 (July 2020), 20200729 Ind. Reg. 045200399NRA, addressing issues concerning sales tax exemption for nonresident purchasers of recreational vehicles and cargo trailers, explains in part:

II. Definitions

A recreational vehicle is defined as a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a **travel trailer**, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

A **nonreciprocal state** means a state that does not provide an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.
(**Emphasis added.**)

The bulletin further elaborates that there are eight nonreciprocal states that do not provide an exemption for vehicles to be registered in Indiana. As a result of this nonreciprocity, purchases of RVs or trailers made at an Indiana dealer, to be registered in one of the following states, are required to pay Indiana sales tax at the time of purchase:

Arizona	California	Florida	Hawaii	Massachusetts
Michigan	North Carolina	South Carolina		

(**Emphasis added.**)

Finally, Sales Tax Information Bulletin 72 provides that after July 1, 2020, if the purchaser of a recreational vehicle or cargo trailer intends to both (a) transport that vehicle or trailer to a destination outside Indiana within 30 days after delivery, and (b) title and register that vehicle or trailer for use in one of the nonreciprocal states listed above. . .the Indiana dealer must charge Indiana sales tax at a special rate, which is the rate of the intended destination state or country.

Taxpayer argues she is entitled to a sales tax refund from Indiana because she is "not an Indiana taxpayer" and "Indiana did not register my vehicle." Taxpayer also claims she is not "obligated to pay tax to Indiana for road maintenance and improvement" because she is not an Indiana resident. Taxpayer provided copies of a Bill of Sale showing the sales tax paid in Indiana and a State of North Carolina Registration Card.

Taxpayer's argument that Indiana should have remitted the sales tax to North Carolina is mistaken. The documentation shows the transaction took place at the Dealership located in Indiana. The transaction began and concluded in Indiana when Taxpayer took possession of the travel trailer she purchased in Indiana. The Dealership delivered the travel trailer to Taxpayer in Indiana. Thus, the sale of the travel trailer was an Indiana sale subject to Indiana sales tax. IC § 6-2.5-13-1(d)(1). The Dealership was required to collect Indiana sales tax at the time of the sale.

The Dealership mistakenly collected Indiana sales tax for the purchase at a rate of seven percent. Taxpayer should have been charged only three percent sales tax: the tax rate for North Carolina. The Dealership's error was corrected when the Department refunded \$710 to Taxpayer in July 2021. To be clear, at the time of the original sales transaction, Dealership should have collected Indiana sales tax at the North Carolina rate of three percent.

Finally, Taxpayer asserts she should not have to pay tax twice on the same vehicle purchase. Taxpayer's complaint with respect to North Carolina's lack of reciprocity with Indiana rests with North Carolina. Indiana has neither control nor authority to address that matter. It is up to the purchaser's state of residence to determine whether that state will give a purchaser credit or an exemption for sales tax paid to Indiana when she purchases a travel trailer out of state.

In summary, Taxpayer's travel trailer sale was an Indiana retail transaction subject to Indiana sales tax. While the Dealership erred in charging her the Indiana sales tax rate of seven percent, she has already been refunded the four percent difference. At this time, she has not paid more than was originally owed to Indiana at the time of the sales transaction. Therefore, Taxpayer is not entitled to any additional refund.

FINDING

Taxpayer's protest is denied.

Dec. 2, 2021

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